IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.M.JAMES

WEDNESDAY, THE 21ST JUNE 2006 / 31ST JYAISHTA, 1928

CRL.A.No. 732 of 2000(B)

ST.1113/1998 of JUDL.MAGISTRATE OF FIRST CLASS, PAYYOLI

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APPELLANT:

K. ABHILASH, KUNNUMMAL HOUSE,
P.O. KARUMALA, BALUSSERY.

BY ADV. SRI.R.K.MURALEEDHARAN

RESPONDENT:

O.MAYIN, OCHATH HOUSE,
BALUSSERY AMSOM, DESOM.

BY ADV. SRI.SANTHARAM.P

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON 21.6.2006 THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J.M.JAMES, J.

CRL.A. 732/2000

DATED THIS THE 21ST DAY OF JUNE, 2006

JUDGMENT

The complainant is the appellant. He preferred a complaint, under Section 138 of the Negotiable Instruments Act, in short 'the Act', and it was posted for evidence. The Judicial Magistrate of First Class, Payyoli, had found that the complainant was absent, when the case was taken up for adducing evidence. Therefore, through the impugned order, the Court below dismissed the complaint. Hence this appeal.

2. After going through the material on record, I find that an opportunity be given to both the parties, so that the complaint itself could be considered, on merit.

3. Therefore, I set aside the impugned order and restore S.T.No.1113/1998 to the file of the Judicial Magistrate of First Class, Payyoli.

4. The parties shall appear before the Court below on 26.7.2006. As the case being an old matter, the learned Magistrate shall dispose of the same, within four months from the date of appearance of the party.

The appeal is closed as above.

J.M.JAMES
JUDGE

mrcs

J.M.JAMES, J.

CRL.R.P. /200
ORDER

DAY OF ,200